

REMARKS

New claims 23 and 24 have been added, support for which exists throughout the present specification, particularly pages 4-5.

Claims 1-9, 11-21, 23 and 24 are currently pending.

Claim 1 has been amended in subpart (a) to require the polyethylene glycol to have a number of ethylene oxide units greater than or equal to 180. As noted in the Office Action (at page 2), support for this amendment exists at least in the examples of the present application.

In view of this amendment, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 112,

The Office Action rejected the pending claims under 35 U.S.C. § 103 as obvious over U.S. patent 6,277,797/WO 96/28140 ("Glenn"). In view of the following comments, Applicants respectfully request reconsideration and withdrawal of this rejection.

The pending claims require the presence of an alkoxyolated thickening agent present in a composition thickening effective amount. Glenn neither teaches nor suggests the claimed alkoxyolated thickening agents, or the required thickened composition.

Rather, Glenn discloses, at col. 3, lines 5-27, polyols used as "humectants and solutes." (See, col. 3, line 1). Nowhere does Glenn teach or suggest using his polyols to thicken his compositions.

For at least this reason, Glenn neither teaches nor suggests the claimed invention.

Furthermore, the invention compositions require the presence of (1) at least one foaming surfactant, (2) at least 1 % by weight of at least one hydrophilic silica, and (3) at least one oxyalkylenated compound, wherein the oxyalkylenated compound is a thickening

agent present in a composition thickening effective amount. As demonstrated in comparative examples 1-3 set forth on pages 24 and 25 of the present specification, if one of these required ingredients is missing, the resulting composition is unacceptable. In stark contrast, invention example 1 set forth on pages 24 and 25 demonstrates that compositions containing all three of the required ingredients possess superior, more desirable properties. These examples demonstrate the criticality of having all three of the required ingredients present in the same composition.

For such compositions to be obvious under 35 U.S.C. §103, Glenn must motivate or suggest to one skilled in the art to combine all three required ingredients into a single composition. Glenn, however, does not provide the necessary suggestion or motivation. In particular, Glenn does not teach or suggest adding a thickening effective amount of at least one oxyalkylenated compound thickening agent to his compositions. Accordingly, Glenn does not teach or suggest the invention compositions or methods.

First, Glenn does not disclose or suggest adding a thickening effective amount of an oxyalkylenated compound to his compositions. For Glenn to disclose a thickening effective amount of the required oxyalkylenated compound, it would have to disclose or suggest actually thickening compositions with an oxyalkylenated compound. *See, Abbott Laboratories v. Baxter Pharmaceutical Products, Inc.*, 67 U.S.P.Q.2d 1191 (Fed. Cir. 2003) (“effective amounts” are not necessarily disclosed by prior art compositions containing the claimed active ingredient; the desired effect must be achieved). Merely because Glenn suggests that oxyalkylenated compounds can be added as humectants, solutes and surfactants does not mean that it discloses or suggests thickening compositions with such compounds.

See, Abbott Laboratories. Based on Glenn's disclosure related to the limited purposes for which oxyalkylenated compounds could be added to his compositions, no motivation would exist for one skilled in the art to actually thicken Glenn's compositions using a thickening effective amount of an oxyalkylenated compound. Rather, one skilled in the art would add oxyalkylenated compounds in humectant, solute and/or surfactant effective amounts. Thus, Glenn neither teaches nor suggests the required element that the oxyalkylenated compound be present in a thickening effective amount.

Second, Glenn does not disclose or suggest adding the required oxyalkylenated thickening agents to his compositions. As noted above, Glenn's polyols are not thickening agents. Rather, Glenn discloses oxyalkenylated compounds suitable for use in his compositions as humectants, solutes and surfactants.

The significance of the requirement that the required oxyalkylenated compounds be thickening agents is demonstrated by the examples in the present specification. Comparative example 2 (pages 24-25) does not contain PEG-120 methylgluclose dioleate, an oxyalkylenated thickening agent, but it does contain two of Glenn's acceptable solutes/humectants, sorbitol and glycerol. (See, Glenn at col. 13, lines 14-15). This composition is a "translucent liquid product like water." Thus, compositions containing only Glenn's solutes/humectants result in unacceptable products. However, when thickening agent PEG-120 methylgluclose dioleate is added, the resulting composition is a "thick translucent gel." (Example 1, pages 24-25). Thus, adding the claimed oxyalkylenated compound in a composition thickening effective amount results in a product having superior, more desirable

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properties, whereas adding Glenn's solutes/humectants does not. For this reason as well the §103 rejection is improper.

In view of the above, Applicants respectfully submit that the rejection under 35 U.S.C. § 103 is improper and should be withdrawn.

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Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

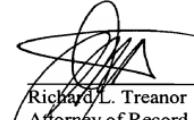
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number

22850

Tel #: (703) 413-3000
Fax #: (703) 413-2220



Richard L. Treanor
Attorney of Record
Registration No. 36,379

Jeffrey B. McIntyre
Registration No. 36,867